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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,414	04/05/2001	Hans Josef Rinninger	31530-171041	5027

26694 7590 02/27/2002

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EXAMINER

ADDIE, RAYMOND W

ART UNIT PAPER NUMBER

3673

DATE MAILED: 02/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/826,414

Applicant(s)

RINNINGER, HANS JOSEF

Examiner

Raymond W. Addie

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-- The MAILING DATE of this communication appears on the cover sheet with the c rrespondenc address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12/27/2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10, 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, wedge-shaped supplementary block of Claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Specification

2. Claim 10 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from every preceding claim. See MPEP § 608.01(n). Accordingly, the claim has not been treated on the merits.

Claim Rejections - 35 USC § 112

Claims 4, 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term "wedge shape" in claim 10 is used by the claim to mean "a block having 2 non-equal sides," while the accepted meaning is "any object having opposing sides that taper to a thin edge." Hence, it is unclear if the Applicant is claiming a "triangular plan view" or redefining the phrase "wedge shaped".

In regards to Claim 4, the phrase "a one-piece block which is square in plan view and with dimensions of 4 cubes with the size of said 1st mentioned cube lying beside one another". A plan view is a view from above the object. In this case a square plan view would conflict with the remaining limitation requiring a clearly rectangular plan view. Therefore, it is unclear as to what the Applicant is claiming. Therefore, the claim is seen to be claiming --rectangular plan view--.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Rinninger # 4,792,257.

Rinninger, as cited by the Applicant, discloses a paving stone comprising:

A molded concrete block (1) for covering an area with paving stones.

Said molded block having approximately a cube shape with substantially planar faces.

At least one face having a rounded or clothodial portion over a substantial area extending toward at least one side edge of said cube.

In regards to Claims 2, 3, 5-8 Rinninger discloses the molded block is in the form of a cube with an edge length (L) or (2L) and a width of (L), such that each side can be used as a horizontal upper face during laying. Rinninger further discloses the molded blocks can have a clothodial surface on at least two opposing surfaces and that at least one edge can be sharp, irregularly rounded, and have a reduced side edge (4). See figs. 1b-3b, 4; col. 2, lines 48-60, col. 3, line 30-col. 4, line 68.

In regards to Claim 11, Rinninger discloses the radius of curvature, of the rounded portion, is variable, like a clothoid shape or Cornu's spiral. See col. 1, lines 54-61.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rinninger # 4,792,257 Dube # 5,496,129.

Rinninger discloses a plurality of rectangular and square, molded blocks (1, 2, 3, 3', H, J) that are usable together to form a covering. What Rinninger does not disclose is any one block being 4 times the size of a 1st block. However, Dube teaches an interlocking paving stone system comprising a plurality of stones (10, 18, 20) being of concrete. Stone (20) being the smallest stone, having a square plan view, and a plurality of similar but differently shaped stones (10, 12, 18). All the stones taught by Dube can be

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interconnected to form a large covering having a specific pattern. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the molded paving block system of Rinninger, with a plurality of differently shaped paving stones in order to, in order to vary the pattern of the paved surface and thereby avoid a monotonous appearance. See Rinninger col 3, line 30-col. 2, line 30; See Dube Abstract.

Response to Arguments

Applicant's arguments with respect to claim 4 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 12/27/2001 with respect to claims 1-3, 5-8, 10, 11 have been fully considered but they are not persuasive.

The Applicant argues against the drawings objection by stating "the block shown in Figure 6H which is clearly shown to be wedged-shaped and which is described in the specification on page 12".

However, Merriam Webster's Collegiate dictionary, 10th Edition defines a wedge shape as being a that "tapers to a thin edge". Figure 6H does not illustrate such an embodiment. Page 12 of the Specification states "the vertical side edges...4-7...the two side faces 4 and 6 are designed to be wedge-shaped and nevertheless, have clothodial rounded portions K".

Clearly Fig. 6H does not illustrate any sides that "taper to a thin edge".

Therefore, the Applicant's definition and use of the phrase "wedge-shape" is

inconsistent to the accepted meaning of the phrase. Hence, the drawing objection is seen as proper and is upheld.

The Applicant argues against the reference to Rinninger # 4,792,257 by stating "Rinninger patent does not disclose a paving stone which is in the form of a cube". However, Claim 1 only requires "approximately the shape of a cube" without specifying how the shape is approximated. Further, Rinninger discloses a square block (2) having equal length and width and a shorter height. Hence, Rinninger clearly discloses the structural limitations claimed. Therefore, the rejection is seen as proper and is upheld.

Applicant further argues "paving stone in Figure 3b (of the patent), theoretically, could be rotated about its longitudinal axis so as to place a face with a clothoid curvature face up, the concept of this is not taught in the Rinninger patent".

However, Rinninger clearly discloses in col. 4, lines 37-55 the embodiment of Fig. 4, is formed of a rotation of the paving stone through 180°...The lower face and the upper face of the paving stone can be used equally as the visible face in the laid state.

Hence the argument is not persuasive and the rejection is upheld.

With respect to Claim 6, the Applicant argues "the clothoid extend(s) over approximately $\frac{1}{4}$ to $\frac{1}{6}$ of the cube length. In Rinninger the clothed curves are all limited to a very small portion of the side edges of the paving stone. See Figures 1A-3A of Rinninger". However, Rinninger clearly discloses in col. 4, lines 32-35 "The clothoids (31) starts in each case on a side face at a length of ... $\frac{1}{4}$ - $\frac{1}{6}$ of the total length...of the particular side face". Therefore, the argument is not persuasive and the rejection is upheld.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

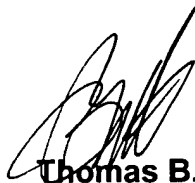
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Whissell # 4,802,836 discloses a block molding machine.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Mon-Sat from 8:00 am to 2:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

RWA
2/15/2002